

## **Carson Smith Special Needs Scholarship Program Program Description**

This description of the Special Needs Scholarship program is intended to provide basic information to potential school applicants and others. It is a compilation of the relevant statutes and rules; applicants are encouraged to refer directly to the statutes and rules.

The Special Needs Scholarship Program provides scholarships to qualified students with disabilities who enroll in eligible private schools. To participate in the program, students and schools must meet eligibility requirements established in Utah Law and Utah State Board of Education Administrative Rules. The scholarship is awarded for a term of three years and may be renewed. The amount of the scholarship is variable dependent upon the extent to which a student's disability results in a need for special education services. For the 2013-14 school year, the maximum annual scholarship award was \$7247.50. The scholarship amount is based on the weighted pupil unit (the basic funding unit for Utah public education). The maximum is currently 2.5 times the weighted pupil unit. The Special Needs Scholarship program is funded by annual appropriations by the Utah Legislature. Scholarships are not guaranteed but are subject to the availability of funds, with priority given to existing scholarships.

### **School Eligibility Requirements**

To be eligible to enroll Special Needs Scholarship students, a school must meet all of the requirements set forth in Utah Code Sec. 53A-1a-705.

1. A school must have a physical location in Utah where scholarship students attend classes and have direct contact with the school's teachers. Online schools are not eligible for participation. Additionally, schools must have a calendar that is comparable to a typical public school calendar.
2. A school must obtain an audit and report from a licensed, independent certified public accountant, or must contract with a licensed, independent certified public accountant to perform an agreed-upon procedure as described in the statute. An applicant school may choose between an audit or the agreed-upon procedure.

If the school chooses to submit an audit and report, the audit and report must be obtained from a licensed, independent certified public accountant. The audit must have been performed in accordance with generally accepted auditing standards. The financial statements must have been presented in accordance with generally accepted accounting standards. The audited financial statement must be for a period within the last twelve months.

If the school chooses to submit a report of the agreed-upon procedure, the school must contract with a licensed, independent certified public accountant to perform the agreed-upon procedure. The agreed-upon procedure is to determine that "the school has **adequate working capital** to maintain operations for the first full year". The law states that working capital shall be calculated by subtracting current liabilities from current assets. The law does not define what amount is "adequate". To fulfill this requirement the report of the agreed-upon procedure must

state whether or not the school has adequate working capital to maintain operations for the first full year. If the report does not include that statement, then it is inadequate.

The audit report or the report of the agreed-upon procedure must be submitted with the application. A school cannot be eligible to enroll scholarship students if the audit report contains a going concern explanatory paragraph, or the report of the agreed-upon procedure shows that the private school does not have adequate working capital to maintain operations for the first full year.

3. A school must comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d. This section is a prohibition against exclusion from participation in, denial of benefits, and discrimination under federally assisted programs on the grounds of race, color, or national origin.
4. A school must meet state and local health and safety laws and codes. Utah State Board of Education Administrative Rule R277-602-6(G) defines this as:
  - A. The adoption of emergency preparedness response plans that include training for school personnel and parent notification for fire drills, natural disasters, and school safety emergencies, and
  - B. Compliance with Utah Health Department Administrative Rule R392-200, Design, Construction, Operation, Sanitation, and Safety of Schools.”
5. A school must disclose to the parents of each prospective student, before the student is enrolled, the special education services that will be provided to the student, including the cost of those services.
6. A school must administer an annual assessment of each scholarship student’s academic progress, report the results of the assessment to the student’s parents, and make the results available to the assessment team evaluating the student pursuant to Utah Code Sec. 53A-1a-704(6). The annual assessment shall be a formal testing procedure carried out under prescribed and uniform conditions that measure students’ academic progress. The school must disclose to parents the name of the assessment, what specifically the assessment measures, when the assessment will be administered, and when the parents will receive the results of the assessment.
7. A school must employ or contract with teachers who hold baccalaureate or higher degrees; or have at least three years of teaching experience in public or private schools; or have special skills, knowledge, or expertise that qualifies them to provide instruction in the subjects taught and to the students taught. A school shall provide to parents of scholarship students with the relevant credentials of teachers who will be teaching their students.
8. A school intending to enroll scholarship students shall submit an application to the Utah State Board of Education by April 1 preceding the school year in which it intends to enroll scholarship students. For further application submission and deadline information, see the Private School Application Instructions.

## **Additional Responsibilities of Private Schools that Enroll Special Needs Scholarship Students**

1. The chief administrative officer of a private school that enrolls scholarship students will require potential employees or volunteers, who will have unsupervised access to students, to submit to a criminal background check as a condition for employment or appointment and, where reasonable cause exists, an existing employee or volunteer to submit to a criminal background check.
2. Schools enrolling Special Needs Scholarship students shall, in concert with the parent seeking a special needs scholarship, initiate the assessment team meeting as required under Utah Code Sec. 53A-1a-704(3). Designated private school personnel shall maintain documentation of the assessment team meetings and the decisions made for the students. This documentation shall be maintained confidentially, except that the information shall be provided for purposes of audit or verification of services upon request by the Utah State Office of Education. The assessment team is described in more detail below.
3. Schools enrolling Special Needs Scholarship students shall provide complete student records in a timely manner to other private schools or public schools requesting student records if parents have transferred students under Utah Code Sec. 53A-1a-704(7).
4. Schools enrolling Special Needs Scholarship students will notify the Utah State Office of Education within five days if
  - (1) The student does not continue in enrollment in an eligible private school for any reason, including parent/student choice, suspension or expulsion of the student; or
  - (2) The student misses more than 10 consecutive days of school.
5. Schools enrolling Special Needs Scholarship students will receive scholarship payments made by the Board payable to the students' parents. These payments are made quarterly. The parent will restrictively endorse the warrant to the private school for deposit into the account of the private school. Schools should be aware that this constitutes a "third-party check" and some schools have initially had problems with their financial institutions about accepting these checks. Once the program is explained, all of the financial institutions have decided to accept the payments, but it may benefit the school to discuss this situation with their financial institution prior to receiving the first batch of checks.
6. Schools enrolling Special Needs Scholarship students will provide documentation that verifies scholarship students' continuing enrollment and attendance prior to each scholarship payment. The documentation is handled through an online system. Schools will be required to setup a remote-desktop connection to the Utah State Office of Education in order to comply with this requirement.

## **Excluded Schools or Programs**

1. Home schools are not eligible to enroll scholarship students.
2. Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

## **Schools That Have Previously Served Students With Disabilities**

Private schools may be designated as “Schools that have Previously Served Students with Disabilities” if they meet the requirements listed below. If a school cannot meet the requirements below, the school can only accept scholarship payments for students who were in public school and had a current IEP during the previous school year. It would not be able to utilize the Assessment Team process (described below) in order to determine the eligibility of a student.

To be designated as a school that has previously served students with disabilities, a school must meet one of these requirements:

- A. The school must have enrolled special needs students within the last three years who received scholarships under the special needs scholarship program; or
- B. The school must have enrolled special needs students within the last three years who have received special education services under Individual Service Plans (ISP) from the school district where the school is geographically located; or
- C. The school must provide other evidence that is determinative of having enrolled students with disabilities, as detailed in the Individuals with Disabilities Education Act (IDEA), within the last three years.

### **Student Eligibility Requirements**

To qualify for a scholarship, a student must meet all the requirements set forth in Utah Code Sec.53A-1a-704; detailed below.

- 1. The student's custodial parent or legal guardian must reside in Utah.
- 2. The student must have one or more of the following disabilities as detailed in the Individuals with Disabilities Education Act (IDEA):
  - a. Mental retardation
  - b. Hearing impairment
  - c. Speech or language impairment
  - d. Visual impairment
  - e. Serious emotional disturbance
  - f. Orthopedic impairment
  - g. Autism
  - h. Traumatic brain injury
  - i. Other health impairment
  - j. Specific learning disability
  - k. A developmental delay, provided the student is at least five years of age and younger than eight years of age
- 3. The student shall be at least five years of age before September 2 of the year in which admission to a private school is sought, and under 19 years of age on the last day of the school year, or if the individual has not graduated from high school will be under 22 years of age on the last day of the school year. Please note that this is the same age requirement for attendance in public school in Utah and exceptions cannot be made.
- 4. Except as described in #5 (below), the student shall have been enrolled in a Utah public school in the school year prior to the school year the student will be enrolled in a private school, have an IEP, and have obtained admission to an eligible private school. Schools should be aware that students are required to submit proof of enrollment or acceptance to an eligible private school

with their scholarship application. A letter from the school on school letterhead and signed by the school administrator is sufficient to meet this requirement.

5. If a scholarship applicant has obtained admission to an eligible private school but has not met the other requirements of #4, then an assessment team must determine eligibility for that student. Only schools designated as a "School that has Previously Served Students with Disabilities" can accept scholarships from these students. The Assessment Team process is described in more detail below, but, in short, in order for the student to qualify, the assessment team must "readily determine with reasonable certainty" that the student would qualify for special education services if enrolled in a public school, and the amount of special education services that would be provided to the student if the student enrolled in a public school. This often entails the same testing and procedures used to determine special education eligibility in public school.
6. Where a parent must submit the scholarship application is dependent upon the student's previous enrollment.
  - A. If the student was enrolled in public school during the previous school year, the application is submitted to the special education department of the public school district where the student was enrolled.
  - B. If the student was not enrolled in public school during the previous school year, the application is submitted to the special education department of the public school district where the private school is located.

Please note that charter schools are considered public schools and act as their own school district. If the student attended a charter school during the previous year, the parent will need to submit the application to the charter school. Parents should be aware that charter schools process far fewer of these applications than a regular district and may not be familiar with the procedures. In these situations the charter school should be encouraged to contact the Utah State Office of Education with questions if necessary. The application must be submitted at least 60 days before the date of the first scholarship payment.

7. The student's parent/guardian must make certain acknowledgments required by statute including assumption of full financial responsibility for the education of the scholarship student.

### **The Assessment Team**

1. The program requires that an assessment team meet in the case of any student seeking eligibility who does not have a current public school IEP. Please note that for this program, an Individualized Service Plan (ISP) is not considered an IEP. A student already attending a private school and receiving services through an ISP must complete the assessment team process in order to determine eligibility.
2. The assessment team comprises the student's parent/guardian, the student's private school classroom teacher or private school administrator, special education personnel from the school district where the private school is located, and (if available) special education personnel from the private school where the student is enrolled.
3. Private schools that seek to enroll Special Needs Scholarship students shall, in concert with the parent seeking a Special Needs Scholarship for a student, initiate the required assessment team

meetings. Private schools are primarily responsible for contact with district personnel and for arranging and facilitating the meeting.

4. Both the public school and private school personnel shall maintain documentation of the meetings and decisions made for the student. Such documents shall be maintained confidentially.
5. Public school districts are required to provide needed staff for assessment team meetings. The meetings shall be scheduled at times and locations mutually acceptable to private schools, applicant parents, and participating public school personnel.
6. The task of the assessment team is to answer the following questions:
  - A. Can it be readily determined with reasonable certainty that the student has a disability listed in Utah Code Sec. 53A-1a-704(2)(b)?
  - B. Would the student qualify for special education services if enrolled in a public school?
  - C. For the purposes of establishing the scholarship amount, what is the appropriate level of special education services that would be provided if the student enrolled in a public school?
7. The results of the private school's annual assessment administered to each scholarship student (see School Eligibility Requirements #6 above) shall be made available to the assessment team if applicable.
8. An assessment team shall evaluate students receiving the Special Needs Scholarship every three years to determine continued eligibility for special education services (if enrolled in a public school) and the appropriate level of special education services that would be provided if the student enrolled in a public school for the purpose of setting the scholarship amount.

#### **Applicable Statutes and Administrative Rules**

1. Utah Code Sec. 53A-1a-701 through 53A-1a-710: Carson Smith Scholarships for Students with Special Needs
2. Utah Code Sec. 53A-3-410: Criminal Background Checks on School Personnel
3. Utah State Board of Education Administrative Rule R277-602: Special Needs Scholarship – Funding and Procedures
4. Utah Health Department Administrative Rule R392-200: Design, Construction, Operation, Sanitation, and Safety of Schools